



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI**

Criminal Appeal 165 of 2008

**STANLEY MWEHE WAHOME.....APPELLANT
VERSUS**

REPUBLIC.....RESPONDENT

(Appeal from the original conviction and sentence in the Principal Magistrate's Court at Murang'a Criminal Case No.2163 of 2006 dated 6th July 2007 by T. W. Murigi Senior Resident Magistrate)

JUDGMENT

STANLEY MWEHE WAHOME, the appellant herein, plus ABDALLA MWANGI WANJIRU were tried on a charge of robbery with violence contrary to *Section 296 (2)* of the Penal Code. The particulars of the offence are that on the 16th July 2006 at Murang'a town in Murang'a District within Central Province, jointly with another not before the Court, while armed with dangerous weapons namely metal bars and knives, robbed CAROLINE WANDIA NYAMBURA of cash Ksh.4,200 and at or immediately before or immediately after the time of such robbery threatened to use actual violence to the said CAROLINE WANDIA NYAMBURA. In the end, the Appellants were convicted for the offence of simple robbery under *Section 296(1)* and each sentenced to serve four (4) years imprisonment. Stanley Mwehe Wahome was dissatisfied hence this appeal. He put forward four (4) grounds of appeal to challenge both the conviction and the sentence. However, when the appeal came up for hearing, the Appellant withdrew the appeal as against conviction thus only appealing against the sentence.

The Appellant was of the view that the sentence was harsh and excessive. He indicated to this Court that he is remorseful and has reformed. We have carefully considered the grounds put forward. It is trite law that an appellate court can only interfere with a trial court's discretion on sentence if it is shown that before making the decision the trial court took into account irrelevant considerations or that the trial court failed to take into account relevant factors or that the sentence is inordinately low or high. An offence under *Section 296 (1)* of the Penal Code attracts a maximum sentence of fourteen (14) years. The record shows that the trial court considered the Appellant's mitigation. The prosecutor indicated that the Appellant was a first offender. We have reconsidered all the facts in mitigation. We think the sentence of four (4) years imprisonment is neither harsh nor excessive. We are afraid to state that the Appellant has to contend with the sentence because we have no reason to interfere with it. The appeal is dismissed in its entirety.

Dated and delivered this 13th day of January 2010.

J. K. SERGON

JUDGE

M. S. A. MAKHANDIA

JUDGE

In open court in the presence of the Appellant and Mr. Makura for the State.

J. K. SERGON

JUDGE

M. S. A. MAKHANDIA

JUDGE